

## DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the D.C. Department of Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendment to Chapter 51 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of this amendment is to change the number of Anesthesiologist Assistants a supervising anesthesiologist may supervise.

Chapter 51 (Anesthesiologist Assistants) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended as follows:

- 5114** Section 5114 is amended to read as follows:
- 5114.1** A supervising anesthesiologist shall be immediately available to participate directly in the care of the patient whom the anesthesiologist assistant and the supervising anesthesiologist are jointly treating, and shall at all times accept and be responsible for the oversight of the health care services rendered by the anesthesiologist assistant.
- 5114.2** A supervising anesthesiologist shall be present during the induction and emergence phases of a patient to whom anesthesia has been administered.
- 5114.3** A supervising anesthesiologist may supervise up to four (4) anesthesiologist assistants at any one time.
- 5114.4** No faculty member of an anesthesiologist assistants program shall concurrently supervise more than two (2) anesthesiologist assistant students who are delivering anesthesia.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty days after the date of publication of this notice in the D.C. Register. Comments should be sent to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 a.m. and 5 p.m., Monday through Friday, excluding holidays.

**DEPARTMENT OF HEALTH**  
**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth under § 302 (14) of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)) ("Act"), and Mayor's Order 98-140, dated August 20, 1998, gives notice of his intent to amend chapter 65 of Title 17 of the District of Columbia Municipal Regulations (DCMR).

The purpose of the proposed amendments is to amend and clarify the procedures for obtaining a pharmacist license in the District of Columbia and for registering and practicing as a pharmacy intern in the District of Columbia, to increase the required number of continuing education hours to forty (40) per renewal cycle, to require completion of approved continuing education programs in Human Immunodeficiency Virus (HIV) training and medication/dispensing errors training, beginning with the academic period ending May 2009, to require completion of an additional five hundred (500) hours of independent pre-licensure practice in a pharmacy setting with the emphasis being on the distribution of medicines and prescriptions, and beginning with the academic period ending May 2009 to require all individuals engaging in pre-licensure professional practice or working as a pharmacy intern in the District to register with the Board after entering the first professional year of college of pharmacy whether or not the hours will be counted toward the total requirement for licensure as a pharmacist.

Final rulemaking action to adopt this amendment shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

**The following rulemaking action is proposed:**

**17 DCMR Chapter 65, PHARMACISTS, is amended as follows:**

**Section 6502.2(e) is amended to read as follows:**

6502.2 (e) Credit for pre-licensure professional practice performed in the District of Columbia shall:

- (1) Not begin to accrue until the Board has registered the intern in accordance with the procedures set forth in § 6509 of this chapter; and
- (2) Only be given for pre-licensure professional practice hours performed as part of a formalized internship program and under the supervision of the individual's assigned preceptor.

**New sections 6502.3, 6502.4, and 6502.5 are added to read as follows:**

6502.3 For independent pre-licensure practice hours completed in the District of Columbia, the Board shall only give credit for the independent pre-licensure

professional practice required by §§ 6502.1(b)(2) and (3) if it meets the requirements set forth in § 6502.2 of this chapter.

6502.4 For independent pre-licensure practice hours completed outside of the District of Columbia, the Board shall recognize the hours and apply the hours to the applicant's required total for licensure only if:

- (a) The hours have been certified in writing by the Board of Pharmacy of the state in which they were obtained; and
- (b) The hours were performed within two years from the date of the application for registration in the District of Columbia.

6502.5 Beginning with the academic period ending May 2009, in addition to the requirements of §§ 6502.1(b) of this chapter, each applicant for a pharmacist license shall submit proof of having completed an additional five hundred (500) hours of independent pre-licensure practice in a pharmacy setting with the emphasis being on the distribution of medicines and prescriptions.

**Section 6503.2 is amended to read as follows:**

6503.2 An applicant under this section shall furnish proof satisfactory to the Board that the applicant holds a degree from a school of pharmacy with at least a five (5) year curriculum at the time of graduation, unless the applicant graduated prior to January 1, 2003 in which case a four (4) year curriculum will be accepted.

**Section 6503.3 is amended to read as follows:**

6503.3 An applicant under this section shall possess a Foreign Pharmacy Graduate Examination Committee Certification (FPGEC).

**Section 6503.4 is amended to read as follows:**

6503.4 An applicant under this section shall receive passing scores on the North American Pharmacist Licensure Examination (NAPLEX) or its successor, and the Multistate Pharmacy Jurisprudence Examination for the District of Columbia (MPJE) or its successor. The passing score of the NAPLEX and MPJE are the passing scores established by the National Association of Boards of Pharmacy on each test that forms a part of the examinations.

**Section 6504 is amended to read as follows:**

**6504 LICENSE BY EXAMINATION**

6504.1 To qualify for a license by examination, an applicant shall:

- (a) Meet the education requirements set forth under § 6502.1(a), or if the applicant was educated in a foreign country meet the requirements set forth under § 6503;
- (b) Meet the training requirements set forth under § 6502.1(b);
- (c) Receive a passing score on each test that forms a part of the NAPLEX, or its successor, which shall be the passing score as determined by the NABP;
- (d) Receive a passing score on each test that forms a part of the MPJE for the District of Columbia, or its successor, which shall be the passing score as determined by the NABP;
- (e) Be at least 18 years of age; and
- (f) Have not been convicted of a crime involving moral turpitude or bearing directly on the fitness of the applicant to be licensed.

6504.2

An applicant for licensure by examination, who has previously successfully completed the NAPLEX and/or MPJE examinations, but has not actively engaged in the practice of pharmacy in the United States or was not actively licensed as a pharmacist in the United States for more than five (5) years prior to the date of the application, in addition to the other requirements of this section, shall be required to do the following in order to qualify for licensure under this section:

- (a) Retake the NAPLEX and MPJE examinations; and
- (b) Register as a Pharmacy Intern and complete an additional pharmacy internship consisting of seven hundred and fifty (750) hours of independent pre-licensure professional practice under the supervision of a licensed pharmacist who uses the standards for pre-licensure professional practice described in § 6502 of this chapter.

6504.3

To apply for a license by examination, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
  - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall:
    - (i) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
    - (ii) Submit proof acceptable to the Board that he or she is legally

authorized to be in the United States, such as a Certificate of Citizenship or Naturalization, Resident Alien Card, a valid foreign passport with a visa; or a work permit card from the Department of Homeland Security (I-766 or I-688B).

- (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2"), which clearly expose the area from the top of the forehead to the bottom of the chin; and
  - (3) One (1) clear photocopy of a U.S. government-issued photo ID, such as a driver's license, as proof of identity.
- (b) Submit official transcripts mailed directly to the Board of Pharmacy from each educational institution in a sealed envelope, which shall verify that the applicant has successfully completed an educational program in the practice of pharmacy meeting the requirements set forth in § 6502.1(a) of this chapter;
  - (c) Applicants educated in foreign countries must submit a Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification in lieu of an official transcript;
  - (d) Submit proof acceptable to the Board that the applicant has successfully completed a pharmacy internship meeting the training requirements set forth in § 6502.1(b) of this chapter;
  - (e) Pay all required fees; and
  - (f) Successfully complete the NAPLEX and MPJE examinations after receiving Board approval to take the examinations and arrange to have the score results sent directly to the Board.

6504.4 An applicant under this section shall successfully complete the NAPLEX and MPJE examinations within one (1) year from the date the Board approves the applicant to take the examinations.

6504.5 If an applicant under this section fails to successfully complete the NAPLEX and MPJE examinations within one (1) year from the date of approval to take the exam, his or her application shall be considered abandoned and closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for licensure, and pay the required fees.

6504.6 If an applicant under this section fails to successfully complete the NAPLEX and MPJE examinations within one (1) year from the date of approval to take the exam, then upon expiration of his or her supervised practice letter, the applicant shall immediately cease from practicing. Thereafter the applicant may perform only the duties of a pharmacy technician until the applicant receives a pharmacist license.

6504.7 A supervised practice letter issued under this section is not renewable and shall expire one (1) year from the date of issuance.

**Section 6505 is amended to read as follows:**

**6505 LICENSE BY SCORE TRANSFER**

6505.1 To qualify for a license by score transfer, an applicant shall:

- (a) Meet the education requirements set forth under § 6502.1(a), or if the applicant was educated in a foreign country meet the requirements set forth under § 6503;
- (b) Meet the training requirements set forth under § 6502.1(b);
- (c) Have received a passing score on each test that forms a part of the NAPLEX, or its successor, which shall be the passing score as determined by the NABP;
- (d) Receive a passing score on each test that forms a part of the MPJE for the District of Columbia, or its successor, which shall be the passing score as determined by the NABP;
- (e) Be at least 18 years of age;
- (f) Have not been convicted of a crime involving moral turpitude or bearing directly on the fitness of the applicant to be licensed; and
- (g) Have requested a score transfer to the District of Columbia at the time the applicant applied to take his or her initial NAPLEX examination.

6505.2 To apply for a license by score transfer, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
  - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall:
    - (i) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
    - (ii) Submit proof acceptable to the Board that he or she is legally authorized to be in the United States, such as a Certificate of Citizenship or Naturalization, Resident Alien Card, a valid

foreign passport with a visa, or a work permit card from the Department of Homeland Security (I-766 or I-688B).  
or a valid foreign passport with a visa.

- (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2"), which clearly expose the area from the top of the forehead to the bottom of the chin; and
- (3) One (1) clear photocopy of a U.S. government-issued photo ID, such as a driver's license, as proof of identity.

- (b) Submit the NABP score transfer form with the application for licensure;
- (c) Submit proof acceptable to the Board that the applicant has successfully completed a pharmacy internship meeting the training requirements set forth in § 6502.1(b) of this chapter;
- (d) Pay all required fees; and
- (e) Successfully complete the MPJE examination after receiving Board approval to take the examination and arrange to have the score result sent directly to the Board.

6505.3 An applicant under this section shall successfully complete the MPJE examination within one (1) year from the date the Board approves the applicant to take the examination.

6505.4 If an applicant under this section fails to successfully complete the MPJE examination within one (1) year from the date of approval to take the exam, his or her application shall be considered abandoned and closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for licensure, and pay the required fees.

6505.5 If an applicant under this section fails to successfully complete the MPJE examination within one (1) year from the date of approval to take the exam, then upon expiration of his or her supervised practice letter, the applicant shall immediately cease from practicing. Thereafter the applicant may become registered as a registered pharmacy technician, if he or she meets the requirements for registration, and perform only the duties of a registered pharmacy technician until the applicant receives a pharmacist license.

6505.6 A supervised practice letter issued under this section is not renewable and shall expire one (1) year from the date of issuance.

Section 6506 is amended to read as follows:

**6506 LICENSE BY RECIPROCITY WITH LICENSURE TRANSFER**

6506.1 To qualify for a license by reciprocity with license transfer, an applicant shall:

- (a) Meet the education requirements set forth under § 6502.1(a), or if the applicant was educated in a foreign country meet the requirements set forth under § 6503;
- (b) Have met the training requirements in the state in which his or her initial license was obtained;
- (c) Have received a passing score on each test that forms a part of the NAPLEX, or its successor, which shall be the passing score as determined by the NABP;
- (d) Receive a passing score on each test that forms a part of the MPJE for the District of Columbia, or its successor, which shall be the passing score as determined by the NABP;
- (e) Be at least 18 years of age;
- (f) Have not been convicted of a crime involving moral turpitude or bearing directly on the fitness of the applicant to be licensed; and
- (g) Obtain a NABP licensure transfer to the District of Columbia.

6506.2 To apply for a license by reciprocity with licensure transfer, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
  - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall:
    - (i) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
    - (ii) Submit proof acceptable to the Board that he or she is legally authorized to be in the United States, such as a Certificate of Citizenship or Naturalization, Resident Alien Card, a valid foreign passport with a visa; or a work permit card from the Department of Homeland Security (I-766 or I-688B).



- (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2"), which clearly expose the area from the top of the forehead to the bottom of the chin; and
  - (3) One (1) clear photocopy of a U.S. government-issued photo ID, such as a driver's license, as proof of identity.
- (b) Submit the NABP licensure transfer form to the District of Columbia with the application for licensure;
  - (c) Pay all required fees; and
  - (d) Successfully complete the MPJE examination after receiving Board approval to take the examination and arrange to have the score result sent directly to the Board.

6506.3 An applicant under this section shall successfully complete the MPJE examination within six (6) months from the date the Board approves the applicant to take the examination.

6506.4 If an applicant under this section fails to successfully compete the MPJE examination within six (6) months from the date of approval to take the exam, his or her application shall be considered abandoned and closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for licensure, and pay the required fees.

6506.5 If an applicant under this section fails to successfully complete the MPJE examination within six (6) months from the date of approval to take the exam, then upon expiration of his or her supervised practice letter, the applicant shall immediately cease from practicing. Thereafter the applicant may become registered as a registered pharmacy technician, if he or she meets the requirements for registration, and perform only the duties of a registered pharmacy technician until the applicant receives a pharmacist license.

6506.6 A supervised practice letter issued under this section is not renewable and shall expire six (6) months from the date of issuance.

**Section 6507 is amended to read as follows:**

**6507 LICENSE BY RECIPROCITY WITH WAIVER OF LICENSURE  
TRANSFER FORM**

6507.1 Only applicants who were previously licensed in the District of Columbia to practice pharmacy may apply for licensure by reciprocity with waiver of licensure transfer.

6507.2

To apply for a license by reciprocity with waiver of licensure transfer form, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
  - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall:
    - (i) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
    - (ii) Submit proof acceptable to the Board that he or she is legally authorized to be in the United States, such as a Certificate of Citizenship or Naturalization, Resident Alien Card, a valid foreign passport with a visa; or a work permit card from the Department of Homeland Security (I-766 or I-688B).
  - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2"), which clearly expose the area from the top of the forehead to the bottom of the chin; and
  - (3) One (1) clear photocopy of a U.S. government-issued photo ID, such as a driver's license, as proof of identity.
- (b) Submit proof acceptable to the Board of previous licensure in the District of Columbia to practice pharmacy;
- (c) Submit verification of current licensure in good standing in another state to practice pharmacy; and
- (d) Pay all required fees.

**Section 6508 is amended to read as follows:**

**6508****SUPERVISED PRACTICE OF PHARMACY**

6508.1

Only the following persons may practice pharmacy under supervision:

- (a) An applicant for a pharmacist license whose initial application for licensure is pending before the Board and who has received a supervised practice letter from the Board, but shall be limited to the same scope of duties as a registered pharmacy intern;
- (b) A licensee who is working under supervised practice pursuant to an Order of

the Board; or

- (c) A pharmacy intern who is registered with the Board, subject to the limitations set forth under District of Columbia law and regulations.

- 6508.2 A supervisor shall be responsible for ensuring that the individual(s) under his or her supervision is authorized to practice under supervision and may be subject to disciplinary action for supervising unlicensed or unauthorized personnel.
- 6508.3 For purposes of this section, supervision shall mean that the supervisor is physically present in the pharmacy area and shall include personal observation, evaluation, oversight, review, and correction of services provided by the supervisee.
- 6508.4 A supervisor shall be fully responsible for supervised practice by a supervisee during the period of supervision, and is subject to disciplinary action for any violation of the Act or this chapter by the person being supervised.
- 6508.5 A supervisee shall be subject to all applicable provisions of the Act and this chapter.
- 6508.6 If the Board finds that a person practicing under supervision has violated the Act or this title, the Board may, in addition to any other disciplinary actions permitted by the Act, deny, revoke, suspend, or restrict the privilege of the supervisee to practice.

**Section 6509 is amended to read as follows:**

**6509 REGISTRATION OF PHARMACY INTERNS**

- 6509.1 Except as provided in 6509.2 of this chapter, this section shall apply to pharmacy interns who are performing independent, pre-licensure professional practice in satisfaction of the internship required by § 6502.1(b)(2) and (3) under the supervision of a pharmacist licensed in the District of Columbia.
- 6509.2 Beginning with the academic period ending May 2009, all individuals engaging in pre-licensure professional practice or working as a pharmacy intern in the District shall register with the Board after entering the first professional year of college of pharmacy whether or not the hours will be counted toward the total requirement for licensure as a pharmacist.
- 6509.3 A pharmacy intern is required to be registered with the Board as an intern before being employed as an intern in a pharmacy in the District or beginning an internship.
- 6509.4 Credit for internship hours performed in the District of Columbia shall not begin

to accrue until the Board has registered the intern and shall only be given for pre-licensure professional practice hours performed as part of a formalized internship program and under the supervision of the individual's assigned preceptor.

6509.5 To qualify to register to perform a pharmacy internship, an applicant shall:

- (a) Meet the education requirements set forth under § 6502.1(a), or if the applicant was educated in a foreign country meet the requirements set forth under § 6503, or be currently enrolled in an educational program in the practice of pharmacy at an ACPE accredited school or school pending initial ACPE accreditation;
- (b) Be at least 18 years of age; and
- (c) Have not been convicted of a crime involving moral turpitude or bearing directly on the fitness of the applicant to be registered.

6509.6 To register as a pharmacy intern, an applicant shall:

- (a) Submit a completed application to the Board on the required forms and include:
  - (1) The applicant's social security number on the application. If the applicant does not have a social security number, the applicant shall:
    - (i) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
    - (ii) Submit proof acceptable to the Board that he or she is legally authorized to be in the United States, such as a Certificate of Citizenship or Naturalization, Resident Alien Card, a valid foreign passport with a visa; or a work permit card from the Department of Homeland Security (I-766 or I-688B).
  - (2) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2"), which clearly expose the area from the top of the forehead to the bottom of the chin; and
  - (3) One (1) clear photocopy of a U.S. government-issued photo ID, such as a driver's license, as proof of identity.
- (b) Submit official transcripts mailed directly to the Board of Pharmacy from each educational institution in a sealed envelope, which shall verify that the applicant has successfully completed an educational program in the practice of pharmacy meeting the requirements set forth in § 6502.1(a) or § 6503.1(a)

of this chapter or is currently enrolled in an educational program in the practice of pharmacy at an ACPE accredited school ;

- (c) Applicants educated in foreign countries must submit a Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification in lieu of an official transcript;
- (d) Pay all required fees; and
- (e) Submit a completed preceptor form signed by his or her preceptor which shall include:
  - (1) The name and District of Columbia pharmacist license number of the preceptor;
  - (2) The location where the internship will be performed;
  - (3) A description of the duties the intern will perform;
  - (4) The expected start date of the internship; and
  - (5) The Oath of the Preceptor set forth in § 6511.3 of this chapter.

6509.7 For applicants who have graduated from a college of pharmacy prior to registering as an intern, a registration as a pharmacy intern shall expire one (1) year from the date of its issuance. The Board may, in its discretion, renew a registration for successive periods of one (1) year if the pharmacy intern demonstrates due diligence in working toward completing the clinical internship requirement of § 6502.1(b)(2) or (3).

6509.8 For applicants enrolled in a college of pharmacy at the time of registering as an intern, a registration as a pharmacy intern shall be valid until whichever of the following occurs first:

- (a) While he or she is enrolled in a pharmacy program and for not more than one year after his or her graduation from the pharmacy program;
- (b) Until such intern is expelled, suspended, dismissed or withdraws from an approved pharmacy program; or
- (c) Until such intern becomes licensed as a pharmacist.

Section 6510 is amended to read as follows:

**6510 PRE-LICENSURE PROFESSIONAL PRACTICE OF PHARMACY INTERNS**

- 6510.1 This section shall apply to pharmacy interns who are performing independent, pre-licensure professional practice in satisfaction of the internship required by §§ 6502.1(b)(2) and (3) under the direct supervision of a pharmacist in the District, or who are otherwise registered with the Board to practice as a pharmacy intern.
- 6510.2 No person not properly registered with the Board as a pharmacy intern shall take, use, or exhibit the title of pharmacy intern, intern, extern, graduate pharmacist or any other similar title.
- 6510.3 A pharmacy intern may practice as an intern under the supervision of any pharmacist licensed in good standing in the District of Columbia. However, the Board shall only grant pre-licensure professional practice hours for those pharmacy tasks:
- (a) Performed under the supervision of the intern's Board approved assigned preceptor; and
  - (b) Where the preceptor was physically present on the pharmacy premises and in the pharmacy area at the time.
- 6510.4 A pharmacy intern shall not change preceptors or worksites without first submitting a new preceptor form to the Board.
- 6510.5 A pharmacy intern shall not compound or dispense any drug by prescription except under the direct supervision of a pharmacist licensed under the Act who is physically present and guiding the action.
- 6510.6 A pharmacy intern shall not accept an oral prescription for a Schedule II controlled substance.
- 6510.7 A pharmacy intern may not perform a final review or exercise final decision-making with respect to any of the following without the prior review and approval of the licensed pharmacist: drug utilization review; clinical conflict resolution, prescriber contact concerning prescription drug order clarification or therapy modification; or dispensing process validation.
- 6510.8 A pharmacy intern shall be identified by badge as an intern while performing pharmacy tasks.
- 6510.9 A pharmacy intern shall not in any manner falsely represent or imply to the public that he or she is a pharmacist.

- 6510.10 A pharmacy intern shall not supervise another pharmacy intern, a pharmacy student, or a pharmacy technician.
- 6510.11 The Board shall only give credit for independent pre-licensure professional practice hours required by §§ 6502.1(b)(2) and (3) if the work meets the following requirements set forth in § 6502.2 of this chapter.

**Section 6511 is amended to read as follows:**

**6511 DUTIES OF A PRECEPTOR**

- 6511.1 This section shall apply only to preceptors who are supervising pharmacy interns in the performance of independent, pre-licensure professional practice in satisfaction of the internship required by § 6502.1(b)(2) and (3) of this chapter.
- 6511.2 To qualify to serve as a preceptor, a pharmacist shall:
- (a) Be licensed in good standing to practice pharmacy in the District of Columbia;
  - (b) Have been engaged in the practice of pharmacy for at least two (2) years on a full-time basis immediately prior to serving as a preceptor; and
  - (c) Not currently be the subject of a disciplinary sanction or investigation in any jurisdiction.
- 6511.3 Prior to supervising a pharmacy intern, a preceptor shall sign the "Oath of Preceptor," which states as follows:
- "I submit that I shall answer all questions concerning the training of the pharmacy intern under my supervision truthfully to the best of my knowledge and belief and that the training I provide will in accordance to the requirements set forth in 17 DCMR §§ Chapter 65 and the practice of pharmacy as required by law."
- 6511.4 Before allowing any person to work as a pharmacy intern, the preceptor shall verify that the person is currently registered with the Board.
- 6511.5 A preceptor shall ensure that at least seventy percent (70%) of a pharmacy intern's training consists of learning to perform the following tasks:
- (a) Filling prescriptions;
  - (b) Compounding drugs;
  - (c) Evaluating prescriptions;

- (d) Handling controlled substances;
- (e) Handling toxic drugs and substances;
- (f) Substituting generic drugs for brand name drugs;
- (g) Storing and packaging drugs;
- (h) Instructing patients;
- (i) Maintaining prescription records; and
- (j) Handling veterinary products.

- 6511.6 A preceptor shall be responsible for the tasks performed by a pharmacy intern. A preceptor may be disciplined for any violation of the Act or this chapter in the performance of pharmacy tasks by the intern and under the preceptor's supervision.
- 6511.7 A preceptor shall not supervise more than one pharmacy intern at one time.
- 6511.8 If the preceptor has evidence of, or strongly suspects, that the pharmacy intern may have violated any law or regulation regarding the practice of pharmacy, prescription drugs or controlled substances, the preceptor shall notify the Board in writing, within ten (10) days or immediately, if any danger to the public health or safety may exist.

**Section 6512 is repealed.**

**A new section 6513 is added to read as follows:**

**6513 CONTINUING EDUCATION REQUIREMENTS**

- 6513.1 Except as provided in § 6513.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license for a term expiring February 28, 2009, and for subsequent terms.
- 6513.2 This section shall not apply to applicants for an initial license by examination or reciprocity, nor does it apply to applicants for the first renewal of a license.
- 6513.3 A continuing education credit shall be valid only if it is part of a program approved by the Board in accordance with § 6514 of this chapter.
- 6513.4 An applicant for renewal of a license shall:
- (a) Have completed forty (40) contact hours of credit in approved continuing



education programs, which shall include two (2) hours in Human Immunodeficiency Virus (HIV) training and two (2) hours in medication/dispensing errors training during the two (2) year period preceding the date the license expires;

- (b) Attest to completion of the required continuing education credits on the renewal application form; and
- (c) Be subject to a random audit.

6513.5 Not more than twenty (20) continuing education units ("CEUs") for approved internet continuing education or independent home study courses may be accepted in any renewal period, or for reinstatement or reactivation of a license.

6513.6 To qualify for a license, a person in inactive status within the meaning of § 511 of the Act, D.C. Official Code § 3-1205.11 (2001) for five (5) years or less who submits an application to reactivate a license shall submit proof pursuant to § 6513.9 of having completed twenty (20) contact hours of approved continuing education credit in the year immediately preceding the date of the application.

6513.7 To qualify for a license, a person in inactive status within the meaning of § 511 of the Act, D.C. Official Code § 3-1205.11 (2001) for more than five (5) years who submits an application to reactivate a license shall submit proof pursuant to § 6513.9 of having completed approved continuing education credit in the year immediately preceding the date of the application as follows:

- (a) Forty (40) contact hours of approved continuing education credit;  
and
- (b) One hundred sixty (160) hours within a sixty (60) day period of professional practice under the supervision of a pharmacist performing tasks listed in § 6502.2(a).

6513.8 To qualify for a license, an applicant for reinstatement of a license shall submit proof pursuant to § 6513.9 of having completed approved continuing education credit in the year immediately preceding the date of the application as follows:

- (a) Forty (40) contact hours of approved continuing education credit;  
and

- (b) One hundred sixty (160) hours within a sixty (60) day period of professional practice under the supervision of a pharmacist  
11 performing tasks listed in § 6502.2(a).

6513.9 Except as provided in § 6513.11, an applicant under this section shall prove completion of required continuing education credits by submitting with the application the following information with respect to each program:

- (a) The name and address of the sponsor of the program;
- (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
- (c) The dates on which the applicant attended the program;
- (d) The hours of credit claimed; and
- (e) Verification by the sponsor of completion, by signature or stamp.

6513.10 Beginning with the 2005 renewal period, the Board shall conduct a random audit of continuing education credits at the completion of each renewal period.

6513.11 Applicants for renewal of a license shall only be required to prove completion of the required continuing education credits by submitting proof pursuant to § 6513.9 if requested to do so as part of the random audit, or if otherwise requested to do so by the Board.

6513.12 An applicant for renewal of a license who fails to renew the license by the date the license expires may renew the license for up to sixty (60) days after the date of expiration by completing the application, submitting the required supporting documents, and paying the required late fee. Upon renewal, the applicant shall be deemed to have possessed a valid license during the period between the expiration of the license and the renewal thereof.

6513.13 If an applicant for renewal of a license fails to renew the license and pay the late fee within sixty (60) days after the expiration of applicant's license, the license shall be considered to have lapsed on the date of expiration. The applicant shall thereafter be required to apply for reinstatement of an expired license and meet all requirements and fees for reinstatement.

6513.14 The Board may, in its discretion, grant an extension of the sixty (60) day period, up to a maximum of one (1) year, to renew after expiration if the applicant's failure to renew was for good cause. As used in this section, "good cause" includes the following:

- (a) Serious and protracted illness of the applicant; and

- (b) The death or serious and protracted illness of a member of the applicant's immediate family.

6513.15 An extension granted under this section shall not exempt the pharmacist from complying with the continuing education requirements for any other renewal period.

**A new section 6514 is added to read as follows:**

**6514 APPROVED CONTINUING EDUCATION PROGRAMS**

6514.1 The Board may, in its discretion, approve continuing education programs that contribute to the growth of an applicant in professional competence in the practice of pharmacy and which meet the other requirements of this section.

6514.2 The Board may approve continuing education programs that meet the requirements of § 6514.3 and provide instruction in one of the following subjects:

- (a) Properties and actions of drugs and drug dosage forms;
- (b) Etiology, characteristics, and therapeutics of the disease state;
- (c) Pharmaceutical practice;
- (d) Legal, psychological, and socio-economic aspects of health care delivery; or
- (e) Principles, techniques, and theories of pharmacy management and administration.

6514.3 To qualify for approval by the Board, a continuing education program shall be a lecture, conference, seminar, course of instruction, or workshop and be prepared, offered, or administered by one of the following:

- (a) Providers approved by the ACPE;
- (b) The Accreditation Council for Continuing Medical Education (sponsored or co-sponsored) and designated as an American Medical Association Physician's Recognition Award Category 1 program by the sponsoring organization;
- (c) A governmental unit;
- (d) A health care facility; or
- (e) An institution of higher learning recognized by an accrediting body approved by the Secretary of the United States Department of Education.

- 6514.4 The Board may issue a list of approved continuing education programs.
- 6514.5 An applicant shall have the burden of verifying whether a program is approved by the Board pursuant to this section prior to attending the program.
- 6514.6 The Board may approve the following continuing education activities by an applicant:
- (a) Serving as an instructor or speaker at a lecture, conference, seminar, workshop, course of instruction, or in-service training; and
  - (b) Publication of an article or book review in a professional journal or bulletin or publication of a book or chapter in a book.

**A new section 6515 is added to read as follows:**

**6515 CONTINUING EDUCATION CREDITS**

- 6515.1 The Board may grant continuing education credit for whole hours only, with a minimum of fifty (50) minutes constituting one (1) credit hour.
- 6515.2 For approved undergraduate or graduate courses, each semester hour of credit constitutes fifteen (15) hours of continuing education credit, and each quarter hour constitutes ten (10) hours of continuing education credit.
- 6515.3 The Board may grant a maximum of ten (10) continuing education credits per year to an applicant who attends in-service education programs.
- 6515.4 The Board may grant credit for both preparation and presentation time to an applicant who serves as an instructor or speaker at an acceptable program, subject to the following restrictions:
- (a) The maximum amount of credit which may be granted for preparation time is twice the amount of the associated presentation time; and
  - (b) The maximum amount of credit which may be granted pursuant to this subsection is fifty percent (50%) of an applicant's continuing education requirement; and
  - (a) The presentation must have been completed during the period for which credit is claimed.
- 6515.5 The Board may grant an applicant who is an author or editor of a published book in the field of pharmacy thirty (30) continuing education credits, if the book has been published or accepted for publication during the period for which credit is claimed, and the applicant submits proof of this fact with the application.

- 6515.6 The Board may grant an applicant who is an author of a published original paper in the field of Pharmacy six (6) continuing education credits, subject to the same restrictions set forth for books in § 6515.5.
- 6515.7 The Board may grant an applicant who is the sole author of a published book review, review paper, or abstract, in the field of Pharmacy, two (2) continuing education credits, subject to the same restrictions set forth for books in § 6515.5.

**Section 6599.1 is amended as follows:**

**The following terms with the ascribed meanings are added as follows:**

**ACPE** - The Accreditation Council for Pharmaceutical Education.

**Act** - The District of Columbia Health Occupation Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 et seq.)

**Department** - The District of Columbia Department of Health.

**Director** - The Director of the District of Columbia Department of Health.

**Distribution** - the actual, constructive, or attempted transfer from one person to another, other than by administering or dispensing, of a drug or medical device whether or not there is an agency relationship.

**Enrolled in a pharmacy program** - In order to be considered enrolled in a school of pharmacy, a person shall not be absent from school for more than two (2) consecutive semesters or three (3) consecutive quarters.

**FPGEC** - Foreign Pharmacy Graduate Examination Committee.

**MPJE** - Multistate Pharmacy Jurisprudence Examination for the District of Columbia

**NABP** - National Association of Boards of Pharmacy.

**NAPLEX** - North American Pharmacist Licensure Examination.

**Preceptor** - means a pharmacist licensed in good standing in the District, who has been approved by the Board to supervise the pre-licensure professional practice of a pharmacy intern.

**Supervised practice letter** - document issued by the Board authorizing the individual to practice the same scope of duties as a pharmacy intern under the supervision of a pharmacist licensed under the Act, while his or her application

for licensure in the District of Columbia is pending or as otherwise authorized by the Board.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the D.C. Register, to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.

**DEPARTMENT OF HEALTH****NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 75 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of these amendments is to clarify educational, licensure, and training requirements, to define the scope of the practice of massage therapy, and to expand the standards of practice. These regulations were previously published on January 12, 2007 at 54 DCR 276. In response to the publication, numerous comments were received resulting in changes to sections 7504.1, 7510.1, 7511.3, 7514.1, 7516.2, and 7599.1.

**Chapter 75 (Massage Therapy) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended as follows:**

**Section 7502 is deleted in its entirety and amended to read as follows:**

**7502            EDUCATIONAL REQUIREMENTS**

7502.1        Except as otherwise provided in this chapter, an applicant shall furnish proof satisfactory to the Board that the applicant has successfully completed an educational program in the practice of massage therapy at an institution or institutions licensed by the District of Columbia Educational Licensing Commission or, in the discretion of the Board; by the educational licensing authority of another state, at the time the applicant graduated. In addition, said institution(s) shall be approved or accredited by the Commission on Massage Therapy Accreditation/Approval or shall have equivalent standards as determined by the Board; or said institution(s) shall be accredited by the Accreditation Council for Continuing Education and Training, the Accrediting Commission of Career Schools and Colleges of Technology, another accreditation agency approved by the United States Department of Education, or a regional body for post secondary education, at the time the applicant graduated, in accordance with § 504(d-1) of the Act (D.C. Official Code § 3-1205.04(d-1)).

7502.2        An applicant for a license to practice massage therapy shall establish, to

the satisfaction of the Board, that he or she has successfully completed a minimum of five hundred (500) hours of in-class training. At least three (3) of the hours shall be in professional ethics.

7502.3 An applicant who applies for a license to practice as a massage therapist more than two (2) years after completing the educational and examination requirements shall submit proof, to the satisfaction of the Board, of having completed fifty (50) hours of clinical training under the charge of a supervisor, of which at least twenty-five (25) hours shall be client contact hours within the four (4) months prior to the date the application is submitted.

7502.4 Of the minimum 500 hours of in-class training required by § 7502.2, a minimum of 100 hours shall consist of anatomy, physiology, and kinesiology. The remaining 400 hours shall include a majority of hours in massage therapy theory and practice, as well as discretionary related course work, including but not limited to professional ethics, business practices, health and hygiene, contraindications of massage, cardiopulmonary resuscitation (CPR), and first aid.

7502.5 The in-class training hours required by § 7502.2 shall be accumulated in programs not less than six (6) months total duration.

7502.6 An applicant may attend more than one (1) training institution, provided he or she graduates from a school requiring a minimum of five hundred (500) in-class hours.

7502.7 Credits earned from a college or university shall be converted by the federal government conversion rate, which grants thirty-seven (37) clock hours for each one (1) credit hour. One (1) classroom hour shall be defined as no less than fifty (50) minutes of any one (1) clock hour. The Board shall not recognize correspondence and on-line courses.

7502.8 An applicant shall submit the following as part of a completed application form:

- (a) An official certified transcript of the applicant's successful completion of the required in-class training;
- (b) A certificate of graduation from an approved school;
- (c) Certification, pursuant to § 7504.2, of the applicant's passing the required approved examination; and
- (d) Current certification in both CPR and first aid.



7502.8 The Board may issue a list of approved schools and training programs.

**Section 7504.1 is amended to read as follows:**

7504.1 To qualify for a license by examination, an applicant shall receive a passing score on the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) or another examination which is certified by the National Commission of Certifying Agencies (NCCA) or the Federation of State Massage Therapy Boards (FSMTB) and approved at the discretion of the Board.

**Section 7506.1 is amended to read as follows:**

7506.1 Subject to § 7506.2, this section shall apply to renewal, reactivation, or reinstatement of a license for a term beginning February 1, 2009, and for subsequent terms thereafter.

**Section 7506.4 is amended to read as follows:**

7506.4 An applicant for renewal, reactivation, or reinstatement of a license shall submit proof pursuant to § 7506.7 of having completed twelve (12) hours of approved continuing education credit during the two (2) year period preceding the date the license expires which shall consist of the following:

- (a) Three (3) hours of professional ethics; and
- (b) Nine (9) hours of massage-related course work provided by a Board approved provider of which six (6) hours shall be completed in a live classroom setting taught by an appropriate instructor.

**Section 7506.6 is amended to read as follows:**

7506.6 To qualify for reinstatement of a license to practice massage therapy, an applicant shall submit proof pursuant to § 7506.7 of having completed the following:

- (a) Six (6) hours of approved continuing education credit for each year that the license was expired with at least three (3) hours completed in a live classroom setting taught by an appropriate instructor with an emphasis on manual techniques; and
- (b) Three (3) hours of professional ethics.

**A new section 7506.12 is added to read as follows:**

7506.12 The Board shall periodically conduct a random audit of at least five

percent (5%) of its active licensees to determine continuing education compliance. Any licensee selected for the audit shall return the completed continuing education compliance audit form and all supporting documentation to the Board within thirty (30) days of receiving notification of the audit. Failure to comply with the continuing education requirements may subject the licensee to disciplinary action by the Board.

**Section 7507.3 is amended to read as follows:**

7507.3 To qualify for approval by the Board, a continuing education program shall do the following:

- (a) Be current in its subject matter;
- (b) Be developed and taught by qualified individuals; and
- (c) Meet one (1) of the following requirements:
  - (1) Be administered or approved by a recognized national, state, or local massage therapy organization, NCBTMB, health care organization, accredited health care facility, or an accredited college or university; or
  - (2) Be submitted by the program sponsors to the Board for review no less than sixty (60) days prior to the date of the presentation and be approved by the Board.

**A new section 7510 is added to read as follows:**

**7510 SCOPE OF PRACTICE**

7510.1 A massage therapist or any person so authorized under the Act to perform massage therapy may perform therapeutic maneuvers in which the practitioner applies massage techniques, including use of the hand or limb, by applying touch and pressure to the human body. Such techniques include, but are not limited to the following:

- (a) Stroking, (including but not limited to Effluerage);
- (b) Kneading, (including but not limited to Petrissage);
- (c) Tapping, (including but not limited to Tapotement);
- (d) Flexibility training, (including but not limited to stretching, strengthening, and manual traction);
- (e) Compression;

- (f) Vibration;
- (g) Friction;
- (h) Application of heat, cold, and water;
- (i) Non-prescription drug applications, (including mild abrasives) for the purpose of improving circulation, enhancing muscle relaxation, relieving muscle pain, reducing stress, or promotion health; or
- (j) Holding, positioning, or causing movement of an individual's body.

7510.2      Massage therapy does not include incidental use of soft tissue manipulation while primarily engaging in another technique or modality in which a practitioner is qualified.

**Section 7511.3 is amended to read as follows:**

- 7511.3      Students and applicants shall adhere to the following:
- (a) A student shall practice massage therapy only under the charge of a supervisor; and
  - (b) An applicant may practice massage therapy prior to licensure for 90 days under the charge of a supervisor.

**A new section 7512 is added to read as follows:**

**7512            CARDIAC PULMONARY RESUSCITATION AND FIRST AID REQUIREMENTS**

7512.1      This section shall apply to renewal, reactivation, or reinstatement of a license for a term beginning February 1, 2009, and for subsequent terms thereafter.

7512.2      An applicant for renewal, reactivation, or reinstatement of a license shall submit to the Board with the renewal, reactivation, or reinstatement application copies of certificates indicating CPR and first-aid certification valid at the date of renewal, reactivation, or reinstatement. Such certification shall not be used to satisfy continuing education requirements.

**Section 7514.1 is amended to read as follows:**

7514.1 A licensed massage therapist shall do the following:

- (a) Perform only those services for which the massage therapist is qualified and shall not represent his or her skills, training, scope of practice, certifications, professional affiliations, and other qualifications in a manner which is false or misleading;
- (b) Work to eliminate prejudices in the profession and not unjustly discriminate against clients or colleagues;
- (c) Abide by all health occupations laws that apply to the practice of massage therapy;
- (d) Protect the client's right to privacy by not divulging confidential information unless disclosure is with the consent of the client or the client's guardian, or is, in the judgment of the massage therapist, needed to protect the client or the community, or is otherwise required by law;
- (e) Conduct business and professional activities with honesty and integrity and project a professional image in all aspects of his or her practice;
- (f) Respect the integrity of each person and, therefore, shall not engage in any sexual activity with clients or individuals who have been clients within the previous twelve (12) months, nor engage in any activities with the intent of sexually arousing clients;
- (g) Provide information about fees upon request by the client;
- (h) Promptly report any information of illegal, unethical, or unsafe practice of massage therapy to the Board;
- (i) Use professional verbal, nonverbal, and written communications;
- (j) Provide an environment that is safe and comfortable for the client and which, at a minimum, meets all legal requirements for health and safety;
- (k) Use standard precautions to insure professional hygienic practices and maintain a level of personal hygiene appropriate for practitioners in the therapeutic setting;
- (l) Wear clothing that is clean, modest, and professional;
- (m) Obtain voluntary and informed consent from the client or the client's

guardian prior to initiating the session;

- (n) If applicable, conduct an accurate needs assessment, develop a plan of care with the client, and update the plan as needed;
- (o) Use appropriate draping to protect the client's physical and emotional privacy;
- (p) Refer to other professionals when in the best interest of the client or practitioner;
- (q) Seek other professional advice when needed;
- (r) Respect the traditions and practices of other professionals and foster collegial relationships;
- (s) Refrain from impugning the reputation of any colleague;
- (t) Protect the interests of clients who are minors or who are unable to give voluntary consent by securing permission from an appropriate third-party or guardian;
- (u) Solicit only information that is relevant to the professional client therapist relationship;
- (v) Maintain client files for a minimum of three (3) years past the date of last contact for an adult and, for a minor, a minimum of three (3) years after the minor reaches the age of majority;
- (w) Store and dispose of client files in a secure manner;
- (x) Maintain adequate and customary liability insurance;
- (y) Advertise in a manner that is not misleading to the public by, among other things, the use of sensational, sexual, or provocative language or pictures to promote business;
- (z) Display or discuss schedule of fees in advance of the session so as to be clearly understood by the client or potential client;
- (aa) Recognize his or her influential position with the client and not exploit the relationship for personal or other gain;
- (bb) Respect the client's right to refuse the therapeutic session;
- (cc) Refrain from practicing under the influence of alcohol, drugs, or

any illegal substances, with the exception of prescribed dosages of prescription medication that do not significantly impair the therapist; and

- (dd) Have the right to refuse or terminate the service provided to a client who is abusive or under the influence of alcohol, drugs, or any illegal substance.

**A new section 7515 is added to read as follows:**

**7515 SUPERVISED PRACTICE FORM**

- 7515.1 A supervised practice form shall be submitted two (2) weeks prior to commencement of supervised practice. A supervised practice form may only be issued to an applicant one (1) time. An applicant may practice massage therapy while working under a supervised practice form for no more than ninety (90) days, and may practice at multiple locations at the discretion of the supervisor(s).
- 7515.2 A supervisor may supervise no more than three (3) applicants at any one time.

**A new section 7516 is added to read as follows:**

**7516 TUBERCULIN TEST REQUIRED**

- 7516.1 This section shall apply to renewal, reactivation, or reinstatement of a license for a term beginning February 1, 2009, and for subsequent terms thereafter.
- 7516.2 An applicant for an initial, renewal, or reinstatement of a license shall provide to the Board proof that the applicant has had an intradermal tuberculin test, or chest x-ray to detect the presence of tuberculosis, performed within the twelve (12) months prior to submission of the application. The applicant shall not be required to forward the results of the test to the Board.

**Section 7599.1 is amended to read as follows:**

- 7599.1 As used in this chapter, the following terms shall have the meanings ascribed:

**Act** - the D.C. Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C Official Code § 3-1201.01 *et seq.*).

**Applicant** - a person applying for a license to practice massage therapy under this chapter.

**Approved School** - any institution or training program which meets the requirements of § 7502.1.

**Board** - the Board of Massage Therapy, established by § 215(a) of the Act (D.C. Official Code § 3-1203.15(a)).

**Full time** - working at least 37.5 hours per week. Client contact while performing massage therapy must comprise at least sixteen (16) of those 37.5 hours.

**Incidental use** - soft tissue manipulation performed as part of movement re-education, energy healing, or other modality in which the soft tissue manipulation is not the central aim of the treatment, but is performed occasionally to facilitate the non-massage therapy practice.

**Massage techniques** - any touching or pressure with the intent of providing healing or therapeutic benefits through soft tissue manipulation. Massage techniques include, but are not limited to, Rolfing, Neuromuscular Therapy, Shiatsu or acupressure, Trigger Point massage, Trager, Tui na, Reflexology, Thai Massage, deep tissue massage, Myofascial Release, Lymphatic Drainage, Craniosacral, Polarity, Reiki, Swedish Massage, and Therapeutic Touch. Massage techniques may be performed in any postural position including seated massage and techniques performed on clothed clients.

**Massage therapist** - a person licensed to practice massage therapy under the Act.

**Sexual activity** - any direct or indirect physical contact or connection by any person, or between persons, which is intended to erotically stimulate either or both persons or which is likely to cause such stimulation. As used herein, sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm, or ejaculation occurs.

**Substantially full time** - working at least twenty-eight (28) hours per week. Client contact while performing massage therapy must comprise at least twelve (12) of those 28 hours.

**Supervision** - oversight by a supervisor who is available on the premises or by vocal communication, either directly or by a communications device, and within one (1) hour of travel time of the supervisee.

**Supervisor** - a massage therapist who is licensed under the Act and in good standing in the District of Columbia, who assumes legal, ethical, and professional responsibility for the conduct of a student or applicant performing massage therapy under his or her charge.

**Therapeutic** - having a positive affect on the health and well-being of the client.

**Training** - in-class instruction from an approved institution pursuant to § 7502.1. Apprenticeships, internships, correspondence courses or any other out-of-class experience are not considered training, but are considered experience.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty days after the date of publication of this notice in the D.C. Register. Comments should be sent to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 a.m. to 5 p.m., Monday through Friday, excluding holidays.



## DEPARTMENT OF HEALTH

**NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth under sections 302 (14) and 203 of the District of Columbia Health Occupations Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1203.02(14) and 3-1202.03), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Title 17 (Business, Occupations & Professions) (May 1990) of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The purpose of the amendments is to establish licensure and practice regulations for the newly established profession of surgical assistant.

**Title 17 (Business, Occupations & Professions) (May 1990) is amended by adding a new Chapter 80 to read as follows:**

**CHAPTER 80            SURGICAL ASSISTANTS****8000            GENERAL PROVISIONS**

- 8000.1            This chapter shall apply to applicants for and holders of a license to practice as a surgical assistant.
- 8000.2            Chapters 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title shall supplement this chapter.

**8001            TERM OF LICENSE**

- 8001.1            Subject to § 8001.2, a license issued pursuant to this chapter shall expire at 12:00 midnight on December 31 of each even-numbered year.
- 8001.2            If the Director changes the renewal system pursuant to § 4006.3, a license issued pursuant to this chapter shall expire at 12:00 midnight on the last day of the month of the birthdate of the holder of the license or other date established by the Director.

**8002            RENEWAL OF LICENSE**

- 8002.1            The holder of a license to practice as a surgical assistant shall renew his or her license by submitting a completed application on the forms required by the Advisory Committee on Surgical Assistants and paying the required fees prior to the expiration of the license.

8002.2 A license holder applying for renewal of a license to practice as a surgical assistant shall submit evidence of current national certification as a surgical assistant, as applicable, by the National Surgical Assistant Association or the American Board of Surgical Assistants, or their successors.

### **8003 LICENSURE REQUIREMENTS**

8003.1 An applicant shall furnish proof satisfactory to the Board in accordance with § 504 of the District of Columbia Health Occupations Revision Act of 1985 (Act), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.04), that the applicant has met one of the following requirements:

- (a) Earned a degree or certification from a surgical assistant program accredited by the Commission for the Accreditation of Allied Health Educational Programs, or by the Commission's successor;
- (b) Successfully completed a dedicated training program for surgical assistants in the armed forces; or
- (c) Demonstrated to the satisfaction of the Board the completion of full time work experience performed in the United States under the direct supervision of a physician licensed in the United States and consisting of at least one thousand three hundred (1,300) hours of work as a surgical assistant within the three (3) years preceding the date of the application.

8003.2 Additionally, an applicant shall submit proof satisfactory to the Board in accordance with § 504 of the Act, D.C. Official Code § 3-1205.04, that the applicant was certified as a surgical assistant by at least one of the following:

- (a) The National Surgical Assistant Association; or
- (b) The American Board of Surgical Assistants.

### **8004 TRANSITION TO LICENSURE**

8004.1 All references to surgical assistants shall be deemed to refer to persons meeting the requirements for licensure in the District, regardless of whether they are licensed in fact, until March 6, 2009.

**8005-8007 [RESERVED]**

### **8008 CONTINUING EDUCATION REQUIREMENTS**

- 8008.1 This section shall apply to applicants for the renewal, reactivation, or reinstatement of a license for a term expiring December 31, 2008, and for subsequent terms.
- 8008.2 An applicant for renewal of a license to practice as a surgical assistant shall submit proof pursuant to § 8008.6 of having completed, during the two (2) year period preceding the date the license expires, fifty (50) approved continuing education units (CEUs) as specified in § 8009.2.
- 8008.3 Continuing education credit may be granted only for a program or activity approved by the Board in accordance with § 8009.
- 8008.4 A surgical assistant who is required to obtain CEUs pursuant to § 8008.2 may, in lieu of meeting the requirement of that section through the completion of CEUs approved by the Board pursuant to § 8009, furnish proof satisfactory to the Board that the surgical assistant holds a current valid certification from the American Board of Surgical Assistants or the National Surgical Assistant's Association and has completed fifty (50) CEUs over a two (2) year period as part of that certification.
- 8008.5 An applicant for reactivation of an inactive license or reinstatement of a license to practice as a surgical assistant shall submit proof pursuant to § 8008.6 of having completed fifty (50) approved CEUs during the two (2) year period immediately preceding the date of application.
- 8008.6 An applicant under this section shall furnish proof of having completed required CEUs by submitting with the application the following information:
- (a) The name of the program and its approval number;
  - (b) The dates on which the applicant attended the program or performed the activity;
  - (c) The hours of credit claimed; and
  - (d) Verification by the applicant of completion.

**8009 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**

- 8009.1 The Board, in its discretion, may approve continuing education programs and activities that contribute to the knowledge, skills, and professional performance and relationships that a surgical assistant uses to provide

services to patients, the public or the profession and that meet the other requirements of this section.

8009.2 The Board may approve continuing education programs and activities for credit that are sponsored , co-sponsored, or accredited by:

(a) The National Surgical Assistants Association, the American Board of Surgical Assistants, the Association of Surgical Technologists/Association of Surgical Assistants, or the National Board of Surgical Technology and Surgical Assisting;

(b) The Accreditation Council for Continuing Medical Education;

(c) The American Osteopathic Association for Category 1-A credit; or

(d) A state medical society.

8009.3 An applicant shall have the burden of verifying whether a program or activity is approved by the Board pursuant to this section prior to attending the program or engaging in the activity.

8009.4 The Board may grant continuing education credit for whole hours only, with a minimum of fifty (50) minutes constituting one (1) CEU.

**8010-8012 [RESERVED]**

**8013 SCOPE OF PRACTICE**

8013.1 A surgical assistant shall, in accordance with this chapter and the Act, have the authority to perform the following tasks:

(a) Provide local infiltration or the topical application of a local anesthetic and hemostatic agents at the operative site;

(b) Incise tissues;

(c) Ligate and approximate tissues with sutures and clamps;

(d) Apply tourniquets, casts, immobilizers, and surgical dressings;

(e) Check the placement and operation of equipment;

(f) Assist in moving and positioning the patient;

(g) Assist the surgeon in draping the patient;

- (h) Prepare a patient by cleaning, shaving, and sterilizing the incision area;
- (i) Retract tissue and expose the operating field area during operative procedures;
- (j) Place suture ligatures and clamp, tie, and clip blood vessels to control bleeding during surgical entry;
- (k) Use cautery for hemostasis under direct supervision;
- (l) Assist in closure of skin and subcutaneous tissue;
- (m) Assist in the cleanup of the surgical suite; and
- (n) Check and restock the surgical suite.

8013.2 A surgical assistant shall not perform the following tasks;

- (a) Perform any surgical procedure independently;
- (b) Prescribe any medications or controlled substances; or
- (c) Write any progress notes or orders on hospitalized patients, except operative notes.

#### **8014 SUPERVISING SURGEON**

8014.1 To be authorized to supervise a surgical assistant, a physician must be currently licensed as a physician in the District. The license must be unrestricted and active.

8014.2 A supervising surgeon shall perform the critical portions of a surgical procedure. Supervision shall be continuous, and shall require that the delegating physician be immediately available in the surgical suite for delegated acts that the surgical assistant performs. The supervising surgeon shall also be immediately available to respond to any emergency until the patient is released from the surgical suite and care has been transferred to another physician, or until the surgical assistant has completed his or her tasks and has been excused by the supervising surgeon. Telecommunication is insufficient for supervision purposes or as a means for directing delegated acts.

8014.3 It is the responsibility of each team of physician(s) and surgical assistant(s) to ensure that:

- (a) The surgical assistant's scope of practice is clearly defined;

- (b) Delegation of medical tasks is appropriate to the surgical assistant's level of competence;
- (c) The relationship between the members of the team is defined;
- (d) The surgical assistant's relationship with and access to the supervising surgeon is defined; and
- (e) A process for the evaluation of the surgical assistant's performance is established.

## **8015 TITLE PROTECTION**

- 8015.1 Unless authorized to practice as a surgical assistant under the Act, a person shall not use or imply the use of the words or terms "surgical assistant", or "S.A.", or any similar title or description of services with the intent to represent that the person practices as a surgical assistant.

## **8016 DUTIES OF ADVISORY COMMITTEE ON SURGICAL ASSISTANTS**

- 8016.1 The Advisory Committee on Surgical Assistants shall consist of five (5) members appointed by the Mayor. One member of the Committee shall be a surgeon licensed in the District with experience working with surgical assistants, three members shall be surgical assistants licensed in the District, and one shall be the Director of the Department of Health, or his or her designee. The Committee shall advise the Board on all matters pertaining to this chapter, shall meet at least annually to review the guidelines for the licensing and regulation of surgical assistants, and shall make necessary revisions for submission to the Board.
- 8016.2 Upon request of the Board, the Committee shall review applications for a license to practice as a surgical assistant and make recommendations to the Board.
- 8016.3 Upon request of the Board, the Committee shall review complaints regarding surgical assistants referred by the Board and make recommendations to the Board regarding what action should be taken.

## **8099 DEFINITIONS**

- 8099.1 As used in this chapter the following terms have the meanings ascribed:

**Board** – the Board of Medicine, established by § 203(a) of the Act, D.C. Official Code § 3-1202.03(a) (1) (2001).

**Committee** – the Advisory Committee on Surgical Assistants, established by § 203(c-3) of the Act, D.C. Official Code § 3-1202.03(c-3).

**Immediately available** – physically present in the surgical suite and capable of responding to the surgical assistant and the patient as medically appropriate.

**Practice by surgical assistants** – means the provision of aid by a person who is not a physician licensed to practice medicine, under the direct supervision of a surgeon licensed in the District, in exposure, hemostasis, closures, and other intraoperative technical functions that assist a physician in performing a safe operation with optimal results for the patient.

**Surgical assistant** – a person licensed to practice as a surgical assistant under the Act, or meeting the requirements for licensure in the District, regardless of whether he or she is licensed in fact, until March 6, 2009.

**Surgical suite** – includes the operating room as well as contiguous recovery rooms.

**Supervising surgeon** – a surgeon licensed in the District who delegates surgical assistance tasks to a licensed surgical assistant and oversees and accepts responsibility for the surgical assistance.

8099.2      The definitions in § 4099 and the Act are incorporated by reference into and are applicable to this chapter.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty days after the date of publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4<sup>th</sup> Floor, Washington, D.C. 20002. Copies of the proposed rule may be obtained from the Department at the same address during the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

**DISTRICT OF COLUMBIA  
DEPARTMENT OF MOTOR VEHICLES**

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 1825 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 50- 904); Title VIII of the Motor Vehicle and Safe Driving Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-289; D.C. Official Code § 50-921); and Mayor's Order 03-58, effective April 21, 2003, hereby gives notice of its intent to adopt the following rulemaking that will amend Chapters 4 and 5 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). The proposed amendments would prohibit the issuance of special use identification tags ("temporary tags") by used car dealers, limit the persons eligible to receive temporary tags from the Director, limit the total number of dealer identification tags and dealer transport tags that may be issued to dealership owners and salespersons, clarify title transfer procedures, and place additional reporting requirements for the issuance of special use identification tags. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, subject to the completion of the Council review period described below.

This rulemaking is being submitted for a 45-day period of review by the Council of the District of Columbia pursuant to section 801 of the Motor Vehicle and Safe Driving Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-289; D.C. Official Code § 50-921).

Title 18, DCMR, is amended as follows:

A. Chapter 4, MOTOR VEHICLE TITLE AND REGISTRATION, is amended as follows:

- 1) Section 402, TRANSFER OF CERTIFICATE OF TITLE, is amended as follows:
  - (a) Subsection 402.8 is amended by striking the phrase "Only new car dealers and used car dealers" and inserting the phrase "Only new car dealers, used car dealers, and their salespersons" in its place.
  - (b) By adding a new subsection 402.9 to read as follows:

402.9 Effective September 21, 2004, if all reassignment spaces on the back of a certificate of title are filled in, a dealer may apply to the Director for a Dealer's proof of ownership.

- 2) Section 426, SPECIAL USE IDENTIFICATION TAGS, is amended by adding new subsections 426.13 through 426.17 to read as follows:



- 426.13 Special use identification tags shall only be issued to persons submitting, in addition to any other items required by the Director, the following:
- (a) Bill of sale for the vehicle, if purchased from a car dealer;
  - (b) Signed certificate of title, or fax as provided by § 426.14, or other proof of ownership satisfactory to the Director; and
  - (c) Proof of sufficient insurance coverage.
- 426.14 Any dealer or financing company may fax a copy of a vehicle's title or dealer's proof of ownership, front and back, to the Department to establish proof of ownership as required by § 426.13(b); except that the Department reserves the right to require the submission of the original documents.
- 426.15 The Director shall not issue special use identification tags to residents of Maryland or Virginia, except as provided in § 426.16.
- 426.16 Any dealer registered in the District of Columbia or their agent may obtain a special use identification tag by appearing at the Department on behalf of a customer from any jurisdiction; provided, that the customer authorizes the dealer to act as their agent by signing the form provided to the dealer by the Department.
- 426.17 If a vehicle displaying a valid special use identification tag fails motor vehicle safety or emissions inspection, the initial special use identification tag may be removed by the DMV inspection station staff and a replacement special use identification tag may be issued.

3) Section 427, DEALER IDENTIFICATION TAGS, is repealed.

B. Chapter 5, MOTOR VEHICLE DEALERS, is amended as follows:

- 1) Section 500, GENERAL PROVISIONS, is amended by adding new subsections 500.5 through 500.7 to read as follows:
- 500.5 No dealer may accept an open assignment of a motor vehicle title or bill of sale that does not identify the dealer as the purchaser or assignee of the motor vehicle.
- 500.6 A dealer shall inform the Department of any change in business ownership or location within five (5) business days of any such change.
- 500.7 All dealers or their agents shall attend any mandatory training required by the Department after receiving notice of the training sent by regular mail to the address on the dealer's registration; except for good cause shown as determined by the Director.

- 2) Section 501, REGISTRATION OF DEALERS, subsection 501.3 is amended to read as follows:

501.3 A person may apply to the Director for registration as a car dealer provided, in addition to all other applicable requirements of this Title, that person:

- (a) Has a valid motor vehicle dealer's business license;
- (b) Has a valid federal tax identification number;
- (c) Has a valid certificate of occupancy in the dealer's name;
- (d) Is actively engaged in buying, selling, and exchanging vehicles; and
- (e) Has an established place of business that is located on a street or avenue.

- 3) Section 502, APPLICATION FOR DEALER REGISTRATION, is amended as follows:

- (a) Subsection 502.2 is amended to read as follows:

502.2 The application form shall contain the following:

- (a) The name of the applicant;
- (b) The trade name, if any, of under which the applicant operates or will operate;
- (c) The location of the applicant's principal place of business and of all other places used by the applicant in the conduct of that business; and
- (d) A statement showing whether the applicant is an individual, partnership, or corporation.
- (e) A copy of the dealer's business license; and
- (f) A copy of the salesperson's license for each salesperson.

- (b) Subsection 502.7 is amended to read as follows:

502.7 Dealer registrations shall expire on October 31 of each year.

- 4) Section 503 is amended to read as follows:

503 DEALER IDENTIFICATION TAGS

- 503.1 Dealer identification tags issued to a registered dealer shall be used solely for the purpose of operating vehicles owned by the dealer, if directly in furtherance of the business of the dealer, and only by the following persons:
- (a) The dealer, provided they carry proof of dealer registration at the time of operation;
  - (b) The dealer's salesperson, provided they carry their salesperson's license at the time of operation; or
  - (c) The dealer's customer, provided:
    - (1) The customer is accompanied by the dealer or the dealer's salesperson and such person carries proof required by (a) or (b) at the time of operation; or
    - (2) The vehicle displays a temporary registration certificate issued to that customer, as provided in § 503.8.
- 503.2 Dealer transport tags may be issued to a registered dealer for use solely by a dealer's subcontractor, or the subcontractor's employee(s), provided:
- (a) The tags are used in connection with the repair or improvement of the vehicle;
  - (b) The vehicle is being operated between the dealership and the repair location; and
  - (c) The operator carries either proof of a contractual relationship regarding such a repair, or an affidavit, signed by the dealer, that states the repair location and that the condition in (a) is satisfied.
- 503.3 A dealer identification tag or dealer transport tag shall be displayed on the rear of a motor vehicle when in use.
- 503.4 Dealer tags shall be issued as follows:
- (a) Two (2) dealer tags per dealer, with a maximum of four (4) tags per business;
  - (b) One (1) dealer tag per salesperson (other than owner); and
  - (c) Two (2) dealer transport tags per business.
- 503.5 A dealer may replace no more than one (1) lost or stolen dealer identification tag or dealer transport tag every six (6) months, upon proof of the filing of a police report or other proof satisfactory to the Director. The Director may waive the time limitation of this subsection for good cause shown.

- 503.6 A dealer shall have motor vehicle insurance that covers the number of vehicles that can be operated using all the dealer tags and dealer transport tags issued to that dealer.
- 503.7 Dealer tags and dealer transport tags shall expire on October 31 of each year.
- 503.8 Whenever a vehicle is furnished by a dealer to a person for the purpose of demonstration or testing and the vehicle is not occupied by an employee of the dealer, a Temporary Registration Certificate, issued to that person by the dealer, shall be affixed to the windshield of the vehicle as provided in § 505.
- 5) Section 505, TEMPORARY REGISTRATION FORMS, is amended as follows:
- (a) Subsection 505.5 is repealed.
- (b) By adding a new subsection 505.14 to read as follows:
- 505.14 A dealer shall make a copy of the driver's license of any customer issued a Temporary Registration Certificate pursuant to § 505.6. The copy shall be submitted together with the Notice of Issuance as provided in § 505.10.
- 6) Section 506, SPECIAL USE IDENTIFICATION TAGS, is amended as follows:
- (a) Subsection 506.1 is amended by inserting the phrase "new car" before the word "dealer".
- (b) Subsection 506.2 is amended by striking the word "sets".
- (c) Subsections 506.3 and 506.4 are repealed.
- (d) Subsection 506.5 is amended as follows:
- (i) Paragraph 506.5(b) is amended by striking the figure "one (1)" and inserting the figure "five (5)" in its place.
- (ii) Paragraph 506.5(c) is repealed.
- (e) Subsection 506.10 is amended to read as follows:
- 506.10 The duplicate copy of the special use certificate, the information received by the new car dealer in accordance with § 506.6, together with an itemized bill of sale that includes the amount of all applicable taxes and fees required for the vehicle's registration, shall be retained at the dealer's registered location for at least two (2) years.
- (f) Subsection 506.11 is repealed.

(g) By adding new subsections 506.12 through 506.17 to read as follows:

- 506.12 Any dealer issuing a special use identification tag to a customer must electronically submit the vehicle identification number, make, model and year of vehicle, special identification tag number, insurance information, the customer's name and address, and the driver's license number of the person operating the vehicle from the dealer's location, to the Department within one (1) business day of the sale.
- 506.13 All special use identification tags in the possession of the dealer shall be kept in a secure location at the dealer's registered place of business and presented to the Department upon request.
- 506.14 A dealer is entitled to replace any lost or stolen special use identification tag no more than once every six (6) months; except for good cause as determined by the Director.
- 506.15 No dealer shall issue a special identification tag for a vehicle not sold by that dealer.
- 506.16 No dealer shall issue a second or subsequent special use identification tag to the same customer for the same vehicle without written approval from the Director.
- 506.17 A dealer may issue special use identification tags for used cars only if the dealer's sale of used cars is incidental to the sale of new cars and the used cars are displayed on the same lot as new cars.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with Glenn Dubin, Assistant Attorney General, Department of Motor Vehicles, 95 M St., S.W., Suite 300, Washington, D.C. 20024. Copies of this proposal are available, at cost, by writing to the above address.